

**ZB# 72-14**

**Dr. Earl Morris**

**(no SBL given)**

Public Hearing - 7/10/72  
8 p.m. -  
(all fees paid)

#12-14  
Dr. Earl Morris



*Oxford*

STOCK No 752 1/5

MADE IN U.S.A.

Sileo  
8-8-72  
12:20 P.M.

D. Carl

State of New York  
County of Orange, ss:

Brian J. Donnelly , being duly sworn deposes and  
says that he is .....The Publisher..... of Newburgh-  
Reacon News Co., Inc., Publisher of The Evening News,  
a daily newspaper published and of general circulation in  
the Counties of Orange and Dutchess, and that the notice  
of which the annexed is a true copy was published .....  
One Time.....  
in said newspaper, commencing on the.....1st  
.....July.....A.D., 1972 , and ending on  
the .....1st..... day of .....July..... A.D., 19 72

Subscribed and sworn to before me this  
.....5th..... day of.....July..... 19..72.....

.....  
Notary Public of the State of New York, County of Orange,  
MY COMMISSION EXPIRES MARCH 30, 1973

PUBLIC NOTICE OF HEARING  
BEFORE THE  
ZONING BOARD OF APPEALS  
PLEASE TAKE NOTICE that  
the Zoning Board of Appeals of  
the Town of New Windsor, New  
York, will hold a public hearing  
pursuant to Section 42-33-A of  
the Zoning Ordinance on the  
following proposition:  
Appeal No. 146-72  
Request of Dr. W. Earl Morris  
for a Variance of the regulations  
of the Zoning Ordinance to per-  
mit continued use of 91, Blooming  
Grove Turnpike, from medical of-  
fices being a variance of Article  
18, Section 7, for property owned  
by him, situated as follows: 91  
Blooming Grove Turnpike  
SAID HEARING will take place  
on the 10th day of July, 1972,  
at the New Windsor City Hall,  
555 Union Avenue, New Windsor,  
NY, beginning at 10 o'clock  
P.M.  
FRED MCCARTHY  
Chairman  
By: Patrick O'Neil, Secretary

Adopted 12/20/65

APPLICATION FOR VARIANCE

Application No. 72-14

Date: June 28, 1972

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR, NEW YORK

I (We) Dr. W. Earl Morris of 91 Blooming Grove Turnpike  
(Street & Number)

New Windsor New York HEREBY MAKE  
(State)

APPLICATION FOR A VARIANCE:

- A. Location of the Property 91 Blooming Grove Turnpike RB  
(Street & Number) (Zone)
- B. Provision of the Zoning Ordinance Applicable: (Indicate the article, section, sub-section and paragraph of the Zoning Ordinance applicable, by number. Do not quote the ordinance.) 48 -32 (b) 48 -27 A-1

C. NOTE: NECESSARY FINDINGS: Before any Variance is granted, the Zoning Board of Appeals must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's land, structure or building and do not apply to the neighboring lands, structures or buildings in the same zone because: Applicant was under the opinion that lands at the time of the purchase were located in an LB district and use was permitted. Applicant received pre-submission approval from New Windsor Planning Board June 17, 1968 (copy annexed). Subsequent change in zoning removed LB district leaving applicant's lands totally in RB. Applicant's use has been continuous and uninterrupted since granting of pre-submission approval by the Planning Board in 1968.
2. Strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same zone because: Applicant and his tenant, Dr. Irving Eckstein, have invested substantial sums of money in furnishings and equipment for their respective professional practices, said sums upon information and belief, are in excess of \$15,000.00. Applicant wishes to sell land and building to Dr. Eckstein to continue existing use uninterrupted. Strict application of the technical provisions of the ordinance would deprive applicant of the opportunity to sell building and would jeopardize extensive investments in reliance upon pre-submission approval.
3. The unique conditions and circumstances are not the result of actions taken of the applicant subsequent to the adoption of the Ordinance because: Applicant believed, as did some members of the Planning Board in 1968, that his office was located just inside the LB zone, making applicant's use permitted under Sec. 48-9 (B) (5). Subsequent to the purchase by the applicant of said office, zoning was changed making the district one family residential RB. A professional office is permitted in an RB zone if it is incidental to the residential use of the premises (48-6-B). No residential use is claimed. Therefore, under existing zoning applicant's land and use could be analagous to a non-conforming use, which was permitted to exist through a misunderstanding created by the annexed exhibit indicating that applicant's building was located in a LB zone.

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance because: The use sought is and has been in continuous existence since 1968. The use of applicant's building for doctor's and dentist's offices causes no harm to the residential character of the zone and provides needed services to the surrounding area.

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: Applicant's use would have been permitted in an LB zone, which was in existence at the time of the purchase of applicant's lands and becomes incompatible by virtue of a subsequent amendment to the zoning law. Since applicant's lands were either partially or wholly located in or near the LB zone at the time of purchase, to permit applicant to continue is recognizing an existing non-conforming type use.

D. Describe in detail how the property is to be used and submit plans or sketches in duplicate.

Building is divided into two offices, one in use by Dr. Morris, a surgeon, and the other by Dr. Eckstein, a dentist. No enlargement of the use is contemplated.

E. Application to be accompanied by two checks, one payable to the Town of New Windsor in the amount decided by the Board and the second check payable to the Secretary for taking the public hearing minutes. Applications to be returned to: Secretary of ZBA.

F. NOTICE OF HEARING: Applicant agrees to send notice of any public hearing via registered or certified mail to all abutting land owners as required by Sec. 9.4.1. of the Ordinance.

G. If the property in question is located within a radius of 500 ft. of an adjoining municipality, the Board should be notified. Also, have your attorney check Sec. 239 I&M of the Gen. Municipal Law to see if it applies. If so, notify the Orange County Planning Board by sending them an application.

Dated: June 28, 1972

Signature of Applicant

STATE OF NEW YORK) SS.:  
COUNTY OF ORANGE)

Sworn to on this 28 day of June, 1972.

91 Blooming Grove Turnpike

Address

561-0560

Telephone Number

Notary Public

RICHARD J. DRAKE  
NOTARY PUBLIC, STATE OF NEW YORK  
(DO NOTARY WHEN IN THE STATE OF NEW YORK)  
RESIDENT IN AND FOR ORANGE COUNTY  
COMMISSION EXPIRES MARCH 30, 1974

Application No. 72-114  
Date of Hearing 7/10/72  
Date of Decision "

Date Received 6/29/72  
Notice Published 7/1/72

DECISION:

Granted.

**Town of New Windsor Planning Board**

**TOWN HALL**

**244 UNION AVENUE**

**NEWBURGH, NEW YORK 12550**

**June 17, 1968**

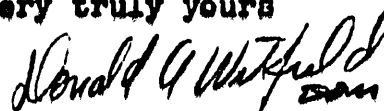
**Theodore Maraden, Supervisor  
New Windsor Town Board  
244 Union Ave.  
New Windsor, N.Y.**

**Gentlemen:**

At a meeting of the New Windsor Planning Board held on June 12, 1968, presubmission approval was granted W. Earl Morris, for converting a building on lands formerly owned by Angelo Marino, at the intersection of Bloominggrove Turnpike and Rte. 94, for use as a professional building, preferably by doctors.

It was agreed by the Planning Board that the Town Board be informed of this action, the location of this land is in LB Zone, and the Planning Board recommends that consideration be given this request.

**Very truly yours**



**Donald A. Witfield, Chairman  
Planning Board.**

**Morris**

**• this subject can be found in the Planning Board  
me 12, 1968, item #20 to #22 inclusive.**

ZONING BOARD OF APPEALS  
Town of New Windsor, New York 12550

7 Franklin Avenue  
New Windsor, N. Y.  
July 1, 1972

Joseph Tallarico, Chairman  
New Windsor Planning Board  
555 Union Avenue  
New Windsor, N. Y. 12550

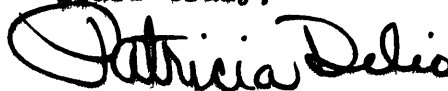
RE: PUBLIC HEARING  
Application No. 72-14 - Dr. Earl Morris

Dear Mr. Tallarico:

Please be informed that there will be a public hearing held on the above application for a variance on Monday, July 10, 1972 at the Town Hall at 8 p.m.

Enclosed please find copy of the application and public hearing notice.

Yours truly,



Patricia Delio, Secretary  
New Windsor Zoning Board of Appeals

/pd

Encs.

cc: Howard Collett, Bldg. Insp.  
Theodore F. Marsden, Supervisor



SCOTT & HOYT & DRAKE  
ATTORNEYS AND COUNSELORS AT LAW

J BRADLEY SCOTT (1894-1962)  
JULIUS LARKIN HOYT  
RICHARD J. DRAKE  
LORRAINE COTÉ DEVERS

POST OFFICE BOX 511  
233 LIBERTY STREET  
NEWBURGH, NEW YORK 12550  
(914) 562-3540

June 28, 1972

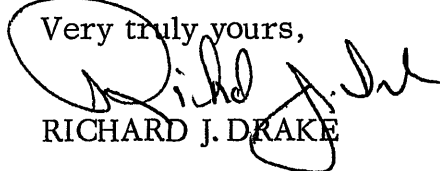
Mrs. Patricia Delio, Secretary  
New Windsor Zoning Board of Appeals  
7 Franklin Avenue  
New Windsor, New York 12550

Re: W. Earl Morris, M.D.  
91 Blooming Grove Turnpike

Dear Pat:

I enclose application for variance, together with  
two checks covering the necessary fees for the  
hearing on July 10th.

Very truly yours,

  
RICHARD J. DRAKE

RJD:kfw  
enc.

SCOTT & HOYT & DRAKE  
ATTORNEYS AND COUNSELORS AT LAW

J BRADLEY SCOTT (1894-1962)  
JULIUS LARKIN HOYT  
RICHARD J. DRAKE  
LORRAINE COTÉ DEVERS

POST OFFICE BOX 511  
233 LIBERTY STREET  
NEWBURGH, NEW YORK 12550  
(914) 562-3540

July 20, 1972

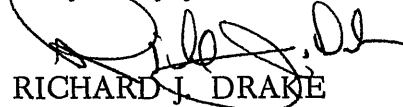
Mrs. Patricia Delio, Secretary  
New Windsor Zoning Board of Appeals  
7 Franklin Avenue  
New Windsor, New York 12550

Re: W. Earl Morris, M.D.

Dear Pat:

Here are the additional returns I received recently, which were not available at the time of the Hearing although they had been posted timely.

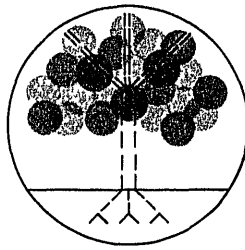
Very truly yours,

  
RICHARD J. DRAKE

RJD:kfw  
enc.

# Department of Planning

Peter Garrison, AIP, Commissioner  
Edwin J. Garling, AIP, Deputy Commissioner



The County Building  
Goshen, New York 10924  
(914) 294-5151

# County of Orange

Louis V. Mills, County Executive

July 6, 1972

Mr. Fred Wygant, Jr., Chairman  
Town of New Windsor Zoning Board  
of Appeals  
Forge Hill Road  
New Windsor, New York 12550

Re: Use Variance - Morris - Route 94  
(Blooming Grove Turnpike)

Dear Mr. Wygant:

This office is in receipt of the above application. In accordance with the provisions of Sections 239, L and M, of the General Municipal Law, we have made our review.

At the present time, the property is located within an RB district which does not permit professional offices. Such uses are permitted primarily in LB districts. However, since a portion, or all of the property, was assumed to be situated at one time in an LB district, the applicant was granted approval for use of the building as a professional office. Although the applicant intends to sell the building to a tenant who is presently utilizing a segment of the building for professional purposes, the use is not changing and should be allowed to continue.

We, therefore, have no objection to a variance and grant County approval.

Very truly yours,

*Peter Garrison*  
Peter Garrison  
Commissioner of Planning

PG:mj

cc: Richard Drake, Esq.  
Reviewed by:  
Joel Shaw  
Senior Planner